

OVERVIEW

The New Source Review (NSR) Program is a preconstruction air quality permitting program for new and modified major stationary sources of air pollution. Congress created the NSR program when it amended the Clean Air Act in 1977. The function of the program, as established in parts C and D of Title I of the CAA Amendments, is to protect public health and welfare while existing sources expand and new sources are built. Part C of Title I of the Act governs Prevention of Significant Deterioration (PSD); Part D of Title I governs nonattainment NSR. Both programs require new and modified major sources of air pollution to use high-quality air pollution emission controls or techniques. PSD sources must install Best Available Control Technology (BACT). Nonattainment NSR sources must use controls or techniques such that they emit at the Lowest Achievable Emission Rate (LAER). These programs also require additional measures to protect air quality. PSD permit applicants must show based on air quality modeling and monitoring data, that their plants will not cause adverse air quality impacts. An applicant for a nonattainment NSR permit must offset the proposed emissions increases from its facility by an equal or greater level of emissions reductions from its facility or another facility in the nonattainment area.

On December 31, 2002, the US Environmental Protection Agency (EPA) published a final rule adopting comprehensive revisions to five major aspects of the federal NSR rule (67 FR 80186, December 31, 2002) governing the applicability of emission control requirements and other program requirements to changes at existing major sources. The final NSR Rule provides a new method for determining baseline actual emissions; adopts the actual-to-projected-actual methodology for determining whether a major modification has occurred; allows major stationary sources to comply with Plantwide Applicability Limits (PALs) to avoid having a significant emissions increase that triggers the requirements of the major NSR program; provides new applicability provisions for emissions units that are designated Clean Units; and excludes Pollution Control Projects (PCPs) from the definition of “physical change or change in the method of operation”. The final NSR rule revisions adopted by EPA on December 31, 2002 have been challenged by numerous parties.

On June 24, 2005, the US District Court of Appeals for the D.C. Circuit Court rejected most of the challenges made to the NSR Rule changes. The court did vacate two aspects of the December 2002 rule concerning the Clean Unit applicability test and Pollution Control Projects.

Because EPA adopted the final rule revisions as minimum elements of the base federal NSR program, a state implementing the NSR program through an approved State Implementation Plan (SIP) must revise its implementing statutes and regulations, if necessary, and make a demonstration by January 2, 2006 to EPA that the SIP is equivalent to the new federal program.

On June 20, 2005, the Louisiana Department of Environmental Quality proposed revisions to LAC 33:III.504 and 509 (AQ 246F & L- Appendix A) to address these program elements.

Following the US District Court of Appeals ruling concerning provisions of the federal NSR rule and considering comments received during the public notice and comment period on LDEQ's proposed NSR rule revisions, LDEQ has made substantive changes to the proposed rule to address provisions vacated by the court. The proposed rule with substantive changes (AQ246FS & LS-Appendix B) was proposed in the September 20, 2005 Louisiana Register. Provisions of the state rule that differ from the federal rule are found in the originally proposed AQ246L rule and the subsequently proposed AQ246LS. Final rules were promulgated on December 20, 2005 (Louisiana Register Vol. 31, No.12, 3122).

This revision to the SIP includes the final rules to revise the state's Part 51 permitting programs to include the revised federal minimum program elements and the outcome of the court ruling. This SIP revision also includes the equivalency demonstration for provisions which differ from the final federal NSR rule.